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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA-WESTERN DIVISION

GUILLERMO ROBLES, an
individual,

Plaintiff,

v.

CALVIN KLEIN, INC., a New York
Corporation, and DOES 1-10,
inclusive,

Defendants.

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF:**

- 1. VIOLATIONS OF THE
AMERICANS WITH DISABILITIES
ACT OF 1990, 42 U.S.C. §12181 *et*
seq. [CALVINKLEIN.COM]**
- 2. VIOLATION OF THE AMERICANS
WITH DISABILITIES ACT OF
1990, 42 U.S.C. §12181 *et seq.*
[CALVIN KLEIN'S MOBILE APP]**
- 3. VIOLATIONS OF THE UNRUH
CIVIL RIGHTS ACT, CALIFORNIA
CIVIL CODE § 51 *et seq.*
[CALVINKLEIN.COM]**
- 4. VIOLATION OF THE UNRUH
CIVIL RIGHTS ACT, CALIFORNIA
CIVIL CODE § 51 *et seq.* [CALVIN
KLEIN'S MOBILE APP]**

1 Plaintiff, GUILLERMO ROBLES (“Plaintiff”), alleges the following upon
2 information and belief based upon personal knowledge:

3 **INTRODUCTION**

4 1. Plaintiff is a visually-impaired and legally blind person who requires
5 screen-reading software to read website content using his computer and iPhone.
6 Plaintiff uses the terms “blind” or “visually-impaired” to refer to all people with
7 visual impairments who meet the legal definition of blindness in that they have a
8 visual acuity with correction of less than or equal to 20 x 200. Some blind people
9 who meet this definition have limited vision. Others have no vision.

10 2. Plaintiff brings this civil rights action against CALVIN KLEIN, INC.
11 (“Defendant” or “Calvin Klein”) for their failure to design, construct, maintain, and
12 operate their website to be fully accessible to and independently usable by Plaintiff
13 and other blind or visually-impaired people. Defendant’s denial of full and equal
14 access to its website, and therefore denial of its products and services offered
15 thereby and in conjunction with its physical locations, is a violation of Plaintiff’s
16 rights under the Americans with Disabilities Act (“ADA”) and California’s Unruh
17 Civil Rights Act (“UCRA”).

18 3. Plaintiff further brings this action against Defendant for failing to
19 design, construct, maintain, and operate its mobile application (“Mobile App” or
20 “Mobile Application”) to be fully accessible to, and independently usable by
21 Plaintiff and other blind or visually-impaired individuals. Defendant’s denial of full
22 and equal access to its Mobile App also denies Plaintiff products and services
23 Defendant offers, which in conjunction with its physical locations is a violation of
24 Plaintiff’s rights under the ADA and UCRA.

25 4. Because Defendant’s website, CalvinKlein.com (the “Website” or
26 “Defendant’s website”), is not equally accessible to blind and visually-impaired
27 consumers in violation of the ADA, Plaintiff seeks a permanent injunction to cause a
28 change in Defendant’s corporate policies, practices, and procedures so that

1 Defendant's website will become and remain accessible to blind and visually-
2 impaired consumers.

3 5. Defendant's Mobile App, a separate portal of access to Defendant's
4 products and services, is also not equally accessible to blind and visually-impaired
5 consumers in violation of the ADA. Plaintiff therefore seeks a permanent injunction
6 to cause a change in Defendant's corporate policies, practices, and procedures so
7 that Defendant's Mobile App also becomes and remains accessible to blind and
8 visually-impaired consumers.

9 **JURISDICTION AND VENUE**

10 6. This Court has subject-matter jurisdiction over this action pursuant to
11 28 U.S.C. § 1331 and 42 U.S.C. § 12181, as Plaintiff's claims arise under Title III of
12 the ADA, 42 U.S.C. § 1281, *et seq.*, and 28 U.S.C. § 1332.

13 7. This court has supplemental jurisdiction over Plaintiff's non-federal
14 claims pursuant to 28 U.S.C. § 1367, because Plaintiff's UCRA claims are so related
15 to Plaintiff's federal ADA claims, they form part of the same case or controversy
16 under Article III of the United States Constitution.

17 8. This Court has personal jurisdiction over Defendants because they
18 conduct and continue to conduct a substantial and significant amount of business in
19 the State of California, County of Los Angeles, and because Defendant's offending
20 website is available across California.

21 9. Venue is proper in the Central District of California pursuant to 28
22 U.S.C. §1391 because Plaintiff resides in this District, Defendants conduct and
23 continue to conduct a substantial and significant amount of business in this District,
24 Defendants are subject to personal jurisdiction in this District, and a substantial
25 portion of the conduct complained of herein occurred in this District.

26 **PARTIES**

27 10. Plaintiff, at all times relevant and as alleged herein, is a resident of
28 California, County of Los Angeles. Plaintiff is a blind, visually-impaired

1 handicapped person, and a member of a protected class of individuals under the
2 ADA, pursuant to 42 U.S.C. § 12102(1)-(2), and the regulations implementing the
3 ADA set forth at 28 CFR §§ 36.101 *et seq.*

4 11. Plaintiff is informed and believes, and thereon alleges Defendant
5 CALVIN KLEIN, INC. (“Defendant” or “Calvin Klein” hereinafter) is and was, at
6 all relevant times herein a New York Corporation with its principal executive offices
7 in New York, New York. Defendant operates Calvin Klein outlet stores as well as
8 the CalvinKlein.com website and advertises, markets, distributes, and/or sells
9 clothing and clothing accessories in California and throughout the United States.
10 Plaintiff is informed and believes and thereon alleges that Defendant is licensed to
11 do business and is doing business in the State of California.

12 12. The true names and capacities of the Defendants sued herein as DOES
13 1 through 10, inclusive, are currently unknown to Plaintiff, who therefore sues such
14 Defendants by fictitious names. Each of the Defendants designated herein as a DOE
15 is legally responsible for the unlawful acts alleged herein. Plaintiff will seek leave of
16 Court to amend this Complaint to reflect the true names and capacities of the DOE
17 Defendants when such identities become known.

18 13. At all relevant times, each and every Defendant was acting as an agent
19 and/or employee of each of the other Defendants and was acting within the course
20 and/or scope of said agency and/or employment with the full knowledge and consent
21 of each of the Defendants. Each of the acts and/or omissions complained of herein
22 were alleged and made known to, and ratified by, each of the other Defendants
23 (Calvin Klein, Inc. and DOE Defendants will collectively be referred to hereafter as
24 “Defendant” or “Calvin Klein”)

25 14. Defendant operates Calvin Klein stores across the United States.
26 Several of these stores are located in the Central District of California. These stores
27 constitute places of public accommodation. Defendant’s stores provide to the public
28 important goods and services. Defendant’s website and Mobile App provide

1 consumers with access to an array of goods and services including store locators,
2 information about clothes, apparel, and other products available online and in retail
3 stores for purchase, special pricing offers and promotional coupons and other goods
4 and services.

5 15. Defendant's stores are public accommodations within the definition of
6 Title III of the ADA, 42 U.S.C. § 12181(7). CalvinKlein.com is a service, privilege,
7 or advantage of Defendant's stores. Defendant's Mobile App is a service, privilege,
8 or advantage of Calvin Klein's stores.

9 16. Defendant is subject to personal jurisdiction in this District. Defendant
10 has been and is committing the acts or omissions alleged herein in the Central
11 District of California that caused injury, and violated rights prescribed by the ADA
12 and UCRA, to Plaintiff and to other blind and other visually impaired-consumers. A
13 substantial part of the acts and omissions giving rise to Plaintiff's claims occurred in
14 the Central District of California. Specifically, on several separate occasions,
15 Plaintiff has been denied the full use and enjoyment of the facilities, goods, and
16 services of Defendant's website and with Defendant's Mobile App in Los Angeles
17 County. These access barriers Plaintiff encountered have caused a denial of
18 Plaintiff's full and equal access multiple times in the past, and now deter Plaintiff on
19 a regular basis from visiting Defendant's brick-and mortar store locations.

20 **THE AMERICANS WITH DISABILITIES ACT AND THE INTERNET**

21 17. The Internet has become a significant source of information, a portal,
22 and a tool for conducting business, doing everyday activities such as shopping,
23 learning, banking, researching, as well as many other activities for sighted, blind and
24 visually-impaired persons alike.

25 18. In today's tech-savvy world, blind and visually-impaired people have
26 the ability to access websites using keyboards in conjunction with screen access
27 software that vocalizes the visual information found on a computer screen or
28 displays the content on a refreshable Braille display. This technology is known as

1 screen-reading software. Screen-reading software is currently the only method a
2 blind or visually-impaired person may independently access the internet. Unless
3 websites are designed to be read by screen-reading software, blind and visually-
4 impaired persons are unable to fully access websites, and the information, products,
5 and services contained thereon.

6 19. Blind and visually-impaired users of Windows operating system-
7 enabled computers and devices have several screen reading software programs
8 available to them. Some of these programs are available for purchase and other
9 programs are available without the user having to purchase the program separately.
10 Job Access With Speech, otherwise known as "JAWS," is currently the most
11 popular, separately purchased and downloaded screen-reading software program
12 available for a Windows computer.

13 20. For blind and visually-impaired users of Apple operating system-
14 enabled computers and devices, the screen access software available and built into
15 all Apple products is VoiceOver. Apple's devices, including the iPhone, have the
16 VoiceOver program integrated into their iOS operating system for use by blind and
17 visually-impaired users.

18 21. For screen-reading software to function, the information on a website
19 must be capable of being rendered into text. If the website content is not capable of
20 being rendered into text, the blind or visually-impaired user is unable to access the
21 same content available to sighted users.

22 22. The international website standards organization, the World Wide Web
23 Consortium, known throughout the world as W3C, has published version 2.0 of the
24 Web Content Accessibility Guidelines ("WCAG 2.0" hereinafter). WCAG 2.0 are
25 well-established guidelines for making websites accessible to blind and visually-
26 impaired people. These guidelines are universally followed by most large business
27 entities to ensure their websites are accessible.

28 23. Apple also provides iOS accessibility guidelines for its mobile devices

1 like the iPhone, which assist iOS developers to make mobile applications accessible
2 to blind and visually-impaired individuals. Apple's guidelines are available online
3 at:

4 [https://developer.apple.com/library/ios/documentation/UserExperience/Conceptual/i](https://developer.apple.com/library/ios/documentation/UserExperience/Conceptual/iPhoneAccessibility/Introduction/Introduction.html)
5 [PhoneAccessibility/Introduction/Introduction.html](https://developer.apple.com/library/ios/documentation/UserExperience/Conceptual/iPhoneAccessibility/Introduction/Introduction.html).

6 24. Non-compliant websites pose common access barriers to blind and
7 visually-impaired persons. Common barriers encountered by blind and visually
8 impaired persons include, but are not limited to, the following:

- 9 a. A text equivalent for every non-text element is not provided;
- 10 b. Title frames with text are not provided for identification and
11 navigation;
- 12 c. Equivalent text is not provided when using scripts;
- 13 d. Forms with the same information and functionality as for sighted
14 persons are not provided;
- 15 e. Information about the meaning and structure of content is not
16 conveyed by more than the visual presentation of content;
- 17 f. Text cannot be resized without assistive technology up to 200 percent
18 without loss of content or functionality;
- 19 g. If the content enforces a time limit, the user is not able to extend,
20 adjust or disable it;
- 21 h. Web pages do not have titles that describe the topic or purpose;
- 22 i. The purpose of each link cannot be determined from the link text
23 alone or from the link text and its programmatically determined link
24 context;
- 25 j. One or more keyboard operable user interface lacks a mode of
26 operation where the keyboard focus indicator is discernible;
- 27 k. The default human language of each web page cannot be
28 programmatically determined;

- 1 l. When a component receives focus, it may initiate a change in context;
- 2 m. Changing the setting of a user interface component may automatically
- 3 cause a change of context where the user has not been advised before
- 4 using the component;
- 5 n. Labels or instructions are not provided when content requires user
- 6 input, which include captcha prompts that require the user to verify
- 7 that he or she is not a robot;
- 8 o. In content which is implemented by using markup languages,
- 9 elements do not have complete start and end tags, elements are not
- 10 nested according to their specifications, elements may contain
- 11 duplicate attributes and/or any IDs are not unique;
- 12 p. Inaccessible Portable Document Format (PDFs); and,
- 13 q. The name and role of all User Interface elements cannot be
- 14 programmatically determined; items that can be set by the user cannot
- 15 be programmatically set; and/or notification of changes to these items
- 16 is not available to user agents, including assistive technology.

FACTUAL BACKGROUND

18 25. Defendant offers the commercial website, CalvinKlein.com, to the
 19 public. The website offers features which should allow all consumers to access the
 20 goods and services which Defendant offers in connection with their physical
 21 locations. The goods and services offered by Defendant include, but are not limited
 22 to the following, which allow consumers to: find information about store locations,
 23 clothes, apparel, and other products available online and in retail stores, to purchase
 24 said goods from the website and Mobile App, access special offers and acquire
 25 information about coupons, and access to various other goods and services.

26 26. Based on information and belief, it is Defendant's policy and practice to
 27 deny Plaintiff, along with other blind or visually-impaired users, access to
 28 Defendant's website and Mobile App, and to therefore specifically deny the goods

1 and services that are offered and integrated with Defendant's stores. Due to
 2 Defendant's failure and refusal to remove access barriers to its website, Plaintiff and
 3 visually-impaired persons have been and are still being denied equal access to
 4 Calvin Klein's stores and the numerous goods, services, and benefits offered to the
 5 public through CalvinKlein.com and Calvin Klein's Mobile App.

6 **Defendant's Barriers on CalvinKlein.com Deny Plaintiff Access**

7 27. Plaintiff is a visually-impaired and legally blind person, who cannot use
 8 a computer without the assistance of screen-reading software. However, Plaintiff is
 9 a proficient user of the JAWS screen-reader and uses it to access the internet.
 10 Plaintiff has visited CalvinKlein.com on several separate occasions using the JAWS
 11 screen-reader.

12 28. During Plaintiff's multiple visits to Defendant's website, Plaintiff
 13 encountered multiple access barriers which denied Plaintiff full and equal access to
 14 the facilities, goods and services offered to the public and made available to the
 15 public. Due to the widespread access barriers Plaintiff encountered on Defendant's
 16 website, Plaintiff has been denied the full enjoyment of the facilities, goods, and
 17 services of CalvinKlein.com, as well as to the facilities, goods, and services of
 18 Calvin Klein's locations in California.

19 29. While attempting to navigate CalvinKlein.com, Plaintiff encountered
 20 multiple accessibility barriers for blind or visually-impaired people that include, but
 21 are not limited to, the following:

- 22 a. Lack of Alternative Text ("alt-text"), or a text equivalent. Alt-text is
 23 invisible code embedded beneath a graphical image on a website.
 24 Web accessibility requires that alt-text be coded with each picture so
 25 that screen-reading software can speak the alt-text where a sighted
 26 user sees pictures, which includes captcha prompts. Alt-text does not
 27 change the visual presentation, but instead a text box shows when the
 28 mouse moves over the picture. The lack of alt-text on these graphics

prevents screen readers from accurately vocalizing a description of the graphics. As a result, visually-impaired Calvin Klein customers are unable to determine what is on the website, browse, look for store locations, check out Defendant's programs and specials, or make any purchases;

b. Empty Links That Contain No Text causing the function or purpose of the link to not be presented to the user. This can introduce confusion for keyboard and screen-reader users;

c. Redundant Links where adjacent links go to the same URL address which results in additional navigation and repetition for keyboard and screen-reader users; and

d. Linked Images Missing Alt-text, which causes problems if an image within a link contains no text and that image does not provide alt-text. A screen reader then has no content to present the user as to the function of the link, including information contained in PDFs.

30. Recently in 2017, Plaintiff again attempted to do business with Calvin Klein on CalvinKlein.com and Plaintiff encountered barriers to access on the website when it came to accessing information related to Defendant's goods and services offered online and at Defendant's retail stores.

Defendant's Barriers on Its Mobile App Deny Plaintiff Access

31. Plaintiff has also experienced accessibility problems when he attempted to use Calvin Klein's Mobile App on his iPhone with Apple's VoiceOver program, that allows Plaintiff to access the menus and applications on his iPhone.

32. In 2017, Plaintiff attempted to access and do business with Calvin Klein using the Calvin Klein iOS Mobile App. Plaintiff was unable to access information contained on the Mobile App or shop with the app due to accessibility barriers of unlabeled buttons that do not conform to Apple's iOS accessibility guidelines. While trying to navigate Defendant's Mobile App, Plaintiff encountered similar

1 access barriers as Defendant's website, similar to the lack of alt-text on graphics,
2 inaccessible forms, inaccessible image maps, and the lack of adequate prompting
3 and labeling.

4 33. Defendants deny visually-impaired people access to its goods, services,
5 and information because it prevents free navigation with screen-reading software to
6 CalvinKlein.com and the Mobile App. These barriers to blind and visually-impaired
7 people can and must be removed, by simple compliance with WCAG 2.0.

8 **Defendant Must Remove Barriers To Its Website and Mobile App**

9 34. Due to the inaccessibility of CalvinKlein.com, blind and visually-
10 impaired customers such as Plaintiff, who need screen-readers, cannot fully and
11 equally use or enjoy the facilities, goods, and services Calvin Klein offers to the
12 public on its website and Mobile App. The access barriers Plaintiff encountered
13 have caused a denial of Plaintiff's full and equal access multiple times in the past,
14 and now deter Plaintiff on a regular basis from accessing Defendant's website and
15 Mobile App. These access barriers have deterred Plaintiff from visiting Calvin
16 Klein store locations.

17 35. If CalvinKlein.com and the Mobile App were equally accessible to all,
18 Plaintiff could independently navigate Defendant's website and Mobile App and
19 complete a desired transaction as sighted individuals do.

20 36. Through his many attempts to use Defendant's website and Mobile
21 App, Plaintiff has actual knowledge of the access barriers that make these services
22 inaccessible and independently unusable by blind and visually-impaired people.

23 37. Because simple compliance with the WCAG 2.0 Guidelines would
24 provide Plaintiff and other visually-impaired consumers with equal access to
25 CalvinKlein.com and Calvin Klein's Mobile App, Plaintiff alleges that Calvin Klein
26 has engaged in acts of intentional discrimination, including but not limited to the
27 following policies or practices:

- 28 a. Construction and maintenance of a website that is inaccessible to

visually-impaired individuals, including Plaintiff;

b. Failure to construct and maintain a website that is sufficiently intuitive so as to be equally accessible to visually-impaired individuals, including Plaintiff; and,

c. Failure to take actions to correct these access barriers in the face of substantial harm and discrimination to blind and visually-impaired consumers, such as Plaintiff, as a member of a protected class.

38. Calvin Klein therefore uses standards, criteria or methods of administration that have the effect of discriminating or perpetuating the discrimination of others, as alleged herein.

39. The ADA expressly contemplates the type of injunctive relief that Plaintiff seeks in this action. In relevant part, the ADA requires:

“In the case of violations of . . . this title, injunctive relief shall include an order to alter facilities to make such facilities readily accessible to and usable by individuals with disabilities. . . . Where appropriate, injunctive relief shall also include requiring the . . . modification of a policy. . . .”

(42 U.S.C. § 12188(a)(2).)

40. Because Defendant’s website and Mobile App have never been equally accessible, and because Defendant lacks a corporate policy that is reasonably calculated to cause its website and Mobile App to become and remain accessible, Plaintiff invokes the provisions of 42 U.S.C. § 12188(a)(2), and seeks a permanent injunction requiring Defendant to retain a qualified consultant acceptable to Plaintiff (“Agreed Upon Consultant”) to assist Defendant to comply with WCAG 2.0 guidelines for Defendant’s website and Mobile App. Plaintiff seeks that this permanent injunction require Defendant to cooperate with the Agreed Upon Consultant to:

a. Train Defendant’s employees and agents who develop the CalvinKlein.com website and Mobile App on accessibility compliance

1 under the WCAG 2.0 guidelines;

2 b. Regularly check the accessibility of Defendant's website and Mobile
3 App under the WCAG 2.0 guidelines;

4 c. Regularly test user accessibility by blind or vision-impaired persons to
5 ensure that Defendant's website and Mobile App complies under the
6 WCAG 2.0 guidelines; and,

7 d. Develop an accessibility policy that is clearly disclosed on
8 Defendant's website and Mobile Apps, with contact information for
9 users to report accessibility-related problems.

10 41. If CalvinKlein.com and the Mobile App were accessible, Plaintiff and
11 similarly situated blind and visually-impaired people could independently view
12 service items, locate Calvin Klein store locations, shop for and otherwise research
13 related products and services available via Defendant's website and Mobile App.

14 42. Although Defendant may currently have centralized policies regarding
15 the maintenance and operation of its website and Mobile App, Defendant lacks a
16 plan and policy reasonably calculated to make them fully and equally accessible to,
17 and independently usable by, blind and other visually-impaired consumers.

18 43. Without injunctive relief, Plaintiff and other visually-impaired
19 consumers will continue to be unable to independently use the Defendant's website
20 and Mobile App in violation of their rights.

21 **FIRST CAUSE OF ACTION**

22 **VIOLATIONS OF THE AMERICANS WITH DISABILITIES ACT OF 1990,**

23 **42 U.S.C. § 12181 et seq. [CALVINKLEIN.COM]**

24 44. Plaintiff re-alleges and incorporates by reference all paragraphs alleged
25 above and each and every other paragraph in this Complaint necessary or helpful to
26 state this cause of action as though fully set forth herein.

27 45. Section 302(a) of Title III of the ADA, 42 U.S.C. § 12101 et seq.,
28 provides:

1 “No individual shall be discriminated against on the basis of disability in the
2 full and equal enjoyment of the goods, services, facilities, privileges,
3 advantages, or accommodations of any place of public accommodation by any
4 person who owns, leases (or leases to), or operates a place of public
5 accommodation.”

6 (42 U.S.C. § 12182(a).)

7 46. Calvin Klein’s stores are public accommodations within the definition
8 of Title III of the ADA, 42 U.S.C. § 12181(7). CalvinKlein.com is a service,
9 privilege, or advantage of Calvin Klein’s stores. CalvinKlein.com is a service that is
10 integrated with these locations.

11 47. Under Section 302(b)(1) of Title III of the ADA, it is unlawful
12 discrimination to deny individuals with disabilities the opportunity to participate in
13 or benefit from the goods, services, facilities, privileges, advantages, or
14 accommodations of an entity. (42 U.S.C. § 12182(b)(1)(A)(i).)

15 48. Under Section 302(b)(1) of Title III of the ADA, it is unlawful
16 discrimination to deny individuals with disabilities an opportunity to participate in or
17 benefit from the goods, services, facilities, privileges, advantages, or
18 accommodation, which is equal to the opportunities afforded to other individuals.
(42 U.S.C. § 12182(b)(1)(A)(ii).)

19 49. Under Section 302(b)(2) of Title III of the ADA, unlawful
20 discrimination also includes, among other things:

21 “[A] failure to make reasonable modifications in policies, practices, or
22 procedures, when such modifications are necessary to afford such goods,
23 services, facilities, privileges, advantages, or accommodations to individuals
24 with disabilities, unless the entity can demonstrate that making such
25 modifications would fundamentally alter the nature of such goods, services,
26 facilities, privileges, advantages or accommodations; and a failure to take such
27 steps as may be necessary to ensure that no individual with a disability is
28 excluded, denied services, segregated or otherwise treated differently than
other individuals because of the absence of auxiliary aids and services, unless
the entity can demonstrate that taking such steps would fundamentally alter

1 the nature of the good, service, facility, privilege, advantage, or
2 accommodation being offered or would result in an undue burden.”

3 (42 U.S.C. § 12182(b)(2)(A)(ii)-(iii).)

4 50. The acts alleged herein constitute violations of Title III of the ADA,
5 and the regulations promulgated thereunder. Plaintiff, who is a member of a
6 protected class of persons under the ADA, has a physical disability that substantially
7 limits the major life activity of sight within the meaning of 42 U.S.C. §§
8 12102(1)(A)-(2)(A). Furthermore, Plaintiff has been denied full and equal access to
9 CalvinKlein.com, has not been provided services which are provided to other
10 patrons who are not disabled, and has been provided services that are inferior to the
11 services provided to non-disabled persons. Defendants have failed to take any
12 prompt and equitable steps to remedy its discriminatory conduct. These violations
13 are ongoing.

14 51. Pursuant to 42 U.S.C. § 12188 and the remedies, procedures, and rights
15 set forth and incorporated therein, Plaintiff, requests relief as set forth below.

16 **SECOND CAUSE OF ACTION**

17 **VIOLATIONS OF THE AMERICANS WITH DISABILITIES ACT OF 1990,**

18 **42 U.S.C. § 12181 et seq. [CALVIN KLEIN’S MOBILE APP]**

19 52. Plaintiff re-alleges and incorporates by reference all paragraphs alleged
20 above and each and every other paragraph in this Complaint necessary or helpful to
21 state this cause of action as though fully set forth herein.

22 53. Defendant’s Mobile App is a service, privilege, or advantage of Calvin
23 Klein’s stores. Defendant’s Mobile App is a service that is integrated with these
24 locations.

25 54. The acts alleged herein constitute violations of Title III of the ADA,
26 and the regulations promulgated thereunder. Plaintiff, who is a member of a
27 protected class of persons under the ADA, has a physical disability that substantially
28 limits the major life activity of sight within the meaning of 42 U.S.C. §§

1 12102(1)(A)-(2)(A). Plaintiff has been denied full and equal access to Calvin
 2 Klein's Mobile App, has not been provided services which are provided to other
 3 patrons who are not disabled, and has been provided services that are inferior to the
 4 services provided to non-disabled persons. Defendant has failed to take any prompt
 5 and equitable steps to remedy its discriminatory conduct. These violations are
 6 ongoing.

7 55. Pursuant to 42 U.S.C. § 12188 and the remedies, procedures, and rights
 8 set forth and incorporated therein, Plaintiff, requests relief as set forth below.

9 **THIRD CAUSE OF ACTION**

10 **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT, CALIFORNIA CIVIL**

11 **CODE § 51 *et seq.* [CALVINKLEIN.COM]**

12 56. Plaintiff re-alleges and incorporates by reference all paragraphs alleged
 13 above and each and every other paragraph in this Complaint necessary or helpful to
 14 state this cause of action as though fully set forth herein.

15 57. California Civil Code § 51 *et seq.* guarantees equal access for people
 16 with disabilities to the accommodations, advantages, facilities, privileges, and
 17 services of all business establishments of any kind whatsoever. Defendant is
 18 systematically violating the UCRA, Civil Code § 51 *et seq.*

19 58. Defendant's stores are "business establishments" within the meaning of
 20 the Civil Code § 51 *et seq.* Defendant generates millions of dollars in revenue from
 21 the sale of goods through its CalvinKlein.com website. Defendant's website is a
 22 service provided by Defendant that is inaccessible to patrons who are blind or
 23 visually-impaired like Plaintiff. This inaccessibility denies blind and visually-
 24 impaired patrons full and equal access to the facilities, goods, and services that
 25 Defendant makes available to the non-disabled public. Defendant is violating the
 26 UCRA, Civil Code § 51 *et seq.*, by denying visually-impaired customers the goods
 27 and services provided on its website. These violations are ongoing.

28 59. Defendant's actions constitute intentional discrimination against

1 Plaintiff on the basis of a disability, in violation of the UCRA, Civil Code § 51 *et*
 2 *seq.*, because Defendant has constructed a website that is inaccessible to Plaintiff,
 3 Defendant maintains the website in an inaccessible form, and Defendant has failed to
 4 take actions to correct these barriers.

5 60. Defendant is also violating the UCRA, Civil Code § 51 *et seq.* because
 6 the conduct alleged herein violates various provisions of the ADA, 42 U.S.C. §
 7 12101 *et seq.*, as set forth above. Section 51(f) of the Civil Code provides that a
 8 violation of the right of any individual under the ADA also constitutes a violation of
 9 the UCRA.

10 61. The actions of Defendant violate UCRA, Civil Code § 51 *et seq.*, and
 11 Plaintiff is therefore entitled to injunctive relief remedying the discrimination.

12 62. Plaintiff is entitled to statutory minimum damages pursuant to Civil
 13 Code § 52 for each and every offense.

14 63. Plaintiff is also entitled to reasonable attorneys' fees and costs.

15 **FOURTH CAUSE OF ACTION**

16 **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT, CALIFORNIA CIVIL**

17 **CODE § 51 *et seq.* [CALVIN KLEIN'S MOBILE APP]**

18 64. Plaintiff re-alleges and incorporates by reference all paragraphs alleged
 19 above and each and every other paragraph in this Complaint necessary or helpful to
 20 state this cause of action as though fully set forth herein.

21 65. Defendant generates millions of dollars in revenue from selling goods
 22 through its Mobile App. Defendant's Mobile App is a service provided by
 23 Defendant that is inaccessible to patrons who are blind or visually-impaired like
 24 Plaintiff. This inaccessibility denies blind and visually-impaired patrons full and
 25 equal access to the facilities, goods, and services that Defendant makes available to
 26 the non-disabled public. Defendant is violating the UCRA, Civil Code § 51 *et seq.*,
 27 by denying visually-impaired customers the goods and services provided on its
 28 Mobile App. These violations are ongoing.

66. Defendant's actions constitute intentional discrimination against Plaintiff on the basis of a disability, in violation of the UCRA, Civil Code § 51 *et seq.*, because Defendant has constructed a Mobile App that is inaccessible to Plaintiff, Defendant maintains the Mobile App in an inaccessible form, and Defendant has failed to take actions to correct these barriers.

67. Defendant is also violating the UCRA, Civil Code § 51 *et seq.* because the conduct alleged herein violates various provisions of the ADA, 42 U.S.C. § 12101 *et seq.*, as set forth above. Section 51(f) of the Civil Code provides that a violation of the right of any individual under the ADA also constitutes a violation of the UCRA.

68. The actions of Defendant violate UCRA, Civil Code § 51 *et seq.*, and Plaintiff is therefore entitled to injunctive relief remedying the discrimination.

69. Plaintiff is entitled to statutory minimum damages pursuant to Civil Code § 52 for each and every offense.

70. Plaintiff is also entitled to reasonable attorneys' fees and costs.

PRAYER

WHEREFORE, Plaintiff prays pray for judgment against Defendant, as follows:

1. A Declaratory Judgment that at the commencement of this action Defendant was in violation of the specific requirements of Title III of the ADA 42 U.S.C. § 12181 *et seq.*, and the relevant implementing regulations of the ADA, for Defendant's failure to take action that was reasonably calculated to ensure that its websites and mobile applications are fully accessible to, and independently usable by, blind and visually-impaired individuals;

2. A preliminary and permanent injunction enjoining Defendant from violating the ADA, 42 U.S.C. § 12181 *et seq.*, and/or the UCRA, Civil Code § 51 *et seq.* with respect to its website CalvinKlein.com;

3. A preliminary and permanent injunction enjoining Defendant from

1 violating the ADA, 42 U.S.C. § 12181 *et seq.*, and/or the UCRA, Civil Code § 51 *et*
2 *seq.* with respect to its Mobile Application;

3 4. A preliminary and permanent injunction requiring Defendant to take the
4 steps necessary to make CalvinKlein.com readily accessible to and usable by blind
5 and visually-impaired individuals;

6 5. A preliminary and permanent injunction requiring Defendant to take the
7 steps necessary to make Defendant's Mobile Application readily accessible to and
8 usable by blind and visually-impaired individuals;

9 6. An award of statutory minimum damages of \$4,000 per violation
10 pursuant to § 52(a) of the California Civil Code;

11 7. For attorneys' fees and expenses pursuant to all applicable laws
12 including, without limitation, pursuant to 42 U.S.C. § 12188(a)(1), and California
13 Civil Code § 52(a);

14 8. For pre-judgment interest to the extent permitted by law;

15 9. For costs of suit; and

16 10. For such other and further relief as this Court deems just and proper.

17 **DEMAND FOR JURY TRIAL**

18 Plaintiff hereby respectfully requests a trial by jury on all appropriate issues
19 raised in this Complaint.

20
21 Dated: February 3, 2017

MANNING LAW, APC

22
23 By: /s/ Joseph R. Manning Jr., Esq. _____

24 Joseph R. Manning Jr., Esq.

25 Caitlin J. Scott, Esq.

26 Tristan P. Jankowski, Esq.

27 Attorneys for Plaintiff
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